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IN THE
Supreme Court of the United States

OCTOBER TERM, 1964

No. 69

RONALD L. FREEDMAN,

Appellant,

—v.—

STATE OF MARYLAND,

Appellee.

APPEAL FROM THE COURT OF APPEALS OF MARYLAND

APPENDIX
TO
BRIEF OF AMERICAN CIVIL LIBERTIES UNION AND
MARYLAND BRANCH. ACLU *AMICI CURIAE*.

APPENDIX A

March 2, 1964

State and Municipal Motion Picture Censorship Laws*

State	Statute Citation	Censoring Body	Standard
Kansas	Kansas Gen. Statutes Ann. Sec. 51-101 to 51-114, 74-2201 to 74-2209 (1949)	3-member Board of Review	Approval of films which are "moral and proper" and disapproval of films which are "cruel, obscene, indecent or immoral or such as tend to debase or corrupt morals".
Maryland ¹	Maryland Ann. Code Art. 66-A, §§1-26 (1922 as amended)	3-member State Board of Censors	Approval of films which are "moral and proper", disapproval of films which are "obscene or such as tend in the judgment of the Board to debase or corrupt morals or incite to crimes".
New York ²	New York Education Law §§122-132 (1927 as amended)	Director of Motion Picture Division, Review by Board of Regents	"obscene, indecent, immoral, inhuman or is of such character that its exhibition would tend to corrupt morals or incite to crime".
Virginia ³	Virginia Code, Title 2, §§98-116 (1930 as amended)	3-member Censor Board, Superintendent of Public Instruction in case of tie. Review by Division of Motion Picture Censorship	"obscene, indecent, immoral, inhuman, or is of such character that its exhibition would tend to corrupt morals or incite to crime".

* As Compiled by the Motion Picture Association of America, Inc.

¹ Constitutionality of statute upheld in *State v. Freedman*, (Maryland Court of Appeals) appeal to U.S. Supreme Court, pending.

² Constitutionality of statute currently under attack in *TransLux v. Regents*, (N. Y. Court of Appeals).

³ Constitutionality of statute under attack in *Victoria Films v. Virginia*, (Richmond Circuit Court).

Municipal Censorship Ordinances

The following compilation includes municipal ordinances which provide for censorship of motion pictures. Many of the ordinances, although still carried on the books of various communities, have not been enforced in many years and boards created by them are completely inactive. These ordinances, however, may be occasionally enforced if a "problem" picture is shown or scheduled to show in a community.

In most instances, although detailed standards are contained in the ordinances, only the standard of "obscenity" is in fact applied by the Boards.

There may be additional ordinances which have been enacted by other municipalities which have not been brought to the attention of the Motion Picture Association.

The compilation does not include criminal statutes which provide for the prosecution of persons distributing, exhibiting, or selling obscene matter including motion pictures.

The ordinances are divided into three groups:

Group 1 contains ordinances requiring the submission of all motion pictures to a censor or censor board for censorship and licensing prior to exhibition.

Group 2 contains ordinances requiring that the censor or censor board be given notice prior to exhibition of the motion pictures to be exhibited in the community, with the Board having power to view those motion pictures it desires to see and in some instances to ban or demand eliminations prior to exhibition.

The third group contains ordinances which empower a censor or censor board to view motion pictures during their exhibition in local theatres and at that time to demand the withdrawal of the picture or eliminations in it.

March 2, 1964

MUNICIPAL CENSORSHIP ORDINANCES

I. LICENSE OR PERMIT REQUIRED PRIOR TO EXHIBITION

City	Ordinance Citation	Censoring Body	Standard Applied
Atlanta, Ga. ¹	1942 Code, Sections 5-305, 58-107, 58-108, Ordinance 12/5/44	Censor and Board of Censors	"obscene or licentious" or "affect the peace, health, morals and good order"
Chicago, Ill. ²	Municipal Code, Sections 155-1 to 155-7	Commissioner of Police	"immoral or obscene, or portrays depravity, immorality, or lack of virtue of a class of citizens of any race, color, creed or religion and exposes them to contempt, derision or obloquy, or tends to produce a breach of the peace or riots, or purports to represent any hanging, lynching or burning of a human being, it shall be the duty of the commissioner of police to refuse such permit; otherwise it shall be his duty to grant such permit."
Detroit, Mich.	Municipal Code, 1954 Chapter 89, Section 20	Commissioner or Superintendent of Police	"indecent or immoral"
•Evanston, Ill. ³	City Code, Article II Sections 35-28 to 35-38	Motion Picture Consultant and Motion Picture Appeals Board	"objectionable"
Fort Worth, Tex.	Ordinance No. 2475	Eight-member Board of Censors	"obscene, immoral, indecent or is calculated to promote or encourage racial or sectional prejudices, indecency or immorality or is reasonably calculated to corrupt the morals of youth"

• Ordinance Inactive.

¹ Held unconstitutional in *Murray v. Gordon*, 217 Ga. 784, 125 S.E. 2d 207 (1962).

Classification ordinance enacted, June, 1962 and declared unconstitutional in *Columbia v. City of Atlanta, Georgia*, Sup. Ct., October, 1963.

² Amended to include a provision for classification and review board, December, 1961.

³ Amended to include classification, July, 1962. •Standard applies only to classified films.

I. LICENSE OR PERMIT REQUIRED PRIOR TO EXHIBITION (Cont'd)

City	Ordinance Citation	Censoring Body	Standard Applied
• Kansas City, Mo.	Revised ordinances of Kansas City, 1956, Chapter 51, Sections 51-1 to 51-1.11 as amended	Motion Picture Reviewer (appointed by Director of Welfare)	<p>“obscene, indecent, or which tends to debase or corrupt morals, or incite to crime. Within the meaning of this section, a film shall be deemed obscene or indecent when said film portrays human nudity or simulation thereof, partial nudity which is sexually immoral or offensive to public decency, dances suggesting or representing sexual actions or indecent passion or emphasizing indecent movements, lewd poses and gestures, lustful embraces, or any other acts, representations, or expressions of erotic or pornographic nature—calculated to stimulate sexual desire or lascivious thoughts; or presents acts related to sex which constitute felonies or misdemeanors under the state laws of Missouri; or presents scenes portraying sexual hygiene, sex organs, abortion, methods of contraception, venereal diseases, or scenes of actual human birth. A film shall be one that tends to debase or corrupt morals or to incite to crime, when the theme or manner of presentation is of such character, as to present the commission of criminal acts or contempt for law as constituting profitable, desirable, acceptable, respectable, or commonly accepted behavior, or if it advocates or teaches use of narcotics, or habit-forming drugs, or portrays such use in a way to stimulate curiosity concerning such use.”</p>

• Ordinance Inactive.

I. LICENSE OR PERMIT REQUIRED PRIOR TO EXHIBITION (Cont'd)

City	Ordinance Citation	Censoring Body	Standard Applied
• Mount Clemens, Mich.	Ordinance enacted 6/1/44, recorded Book 5, Page 54	Censor appointed by City Commission	"detrimental to the public morals or not approved by the Detroit Police Department"
• Pasadena, Calif.	Ordinance No. 3035 as amended 6/17/39	Three-Member Board of Review	"indecent, obscene or immoral character"
• Portland, Ore.	Ordinance No. 97898, Sections 16-3001 to 16-3010 (2/13/53)	Chief of Police	"indecent, immoral, obscene, suggestive, immodest or designed or tending to ferment religious, political, racial or social hatred, antagonism or detrimental to the public peace and welfare"
• Providence, R. I.	City Chapter XXXII, Sections 159-171	Amusement Inspector (member of Police Force)	"obscene, impure or manifestly tending to the corruption of the morals of youth . . . lewd, wanton or lascivious"
• Sacramento, Calif.	Ordinance No. 532, 12/3/31	Censor Board composed of Chief of Police and City Manager	"offensive to public morality and decency, will delineate any lewd or indecent act or any other matter or thing which is lewd, obscene or vulgar or which is of an obscene, indecent, or immoral nature or so suggestive as to be offensive to the moral sense"

• Ordinance Inactive.

• Declared unconstitutional in the *City of Portland v. Welch*, 229 Oregon 308, 367 P. 2d 403, 1961.

✓ I. LICENSE OR PERMIT REQUIRED PRIOR TO EXHIBITION (Cont'd)

City	Ordinance Citation	Censoring Body	Standard Applied
•San Angelo, Tex.	Ordinance No. 247, 7/2/20	Six-member Board of Censors	"obscene, immoral or indecent or is calculated to promote or encourage indecency or immo- rality"
•Waukegan, Ill.	1936 City Code, Chapter 54, Sections 587 to 596 as amended by Ordinance No. 57-0-108, 8/19/57	Seven-member Board of Censorship	motion pictures not released by "a national producing organization and passed upon by the National Preview Committee" if "indecent or lewd or obscene"
•Wichita Falls, Tex.	Codified ordinances, Chapter 5, Sections 4-501 to 4-5014 (1941)	Two or more Censors of commercialized amusements (ap- pointed by Mayor)	"calculated to corrupt the morals of youth or is indecent, low or vulgar or calculated to promote racial prejudice or create disorder or is reason- ably calculated to cause a disturbance of the peace"
•Winnetka, Ill.	Winnetka Code, Art. 5, Sections 252 to 260	Village Censor	"obscene or immoral" or pictures "which por- tray any notorious, disorderly or any other un- lawful scene, or which have a tendency to dis- turb the peace or which depict or suggest crime, the scenes of crime or the methods of criminals"

• Ordinance Inactive.

II. ADVANCE NOTICE REQUIRED—NO PERMIT OR LICENSE NECESSARY

City	Ordinance Citation	Censoring Body	Advance Notice	Standards
Abilene, Texas	No ordinance citation. Ordinance passed August, 1961	8-member Exhibition Review Board	Month in advance of exhibition	"obscene"
Birmingham, Ala.	Ordinance No. 1022 adopted 12/8/53 amending Sections 1204 to 1208 of 1944, General City Code	Chief of Police	Written notice required 24 hours prior to exhibition	"a human being (other than a babe in arms) in a nude state or condition, or, by reason of transparency of clothing or drapery in substantially nude state or condition; or in which is exhibited, shown, pictured, represented or suggested any indecent, obscene, lewd, filthy, vulgar, lascivious, or immoral act, scene, posture or matter; or in which is exhibited, shown, pictured or represented any suicide, unless shown in a flash, or any hanging, lynching or execution of a human being; or in which is exhibited, shown, pictured or represented any female in a drunken state, unless reduced to a flash, or any rape or attempt at rape, or any childbirth or any domestic or conjugal infidelity of an immoral nature upon the part of either husband or wife, or any bawdy house or transaction therein, or the plying of the trade of a procurer, procur-

II. ADVANCE NOTICE REQUIRED—No PERMIT OR LICENSE NECESSARY (Cont'd)

City	Ordinance Citation	Censoring Body	Advance Notice	Standards
• Gary, Ind.	1949 Code, Chapter 29, Sections 26 to 36	Six-member Board of Censors	Upon demand and as far in advance as possible	ess, cadet or other person who profits directly from prostitution or at more females, or the seduction or attempted seduction of any person, or immoral or unlawful sexual conduct or relations," "immoral, lewd or lascivious character inimical to the public safety, health, morals or welfare within the city"
• Lansing, Mich.	Ordinance No. 72, 12/13/15	Police and Fire Commission	Three days notice	"contrary to good order and public welfare and tends to reflect reproach upon any race or incite race hatred, race riots and which stirs up race prejudice and tends to disturb the public peace"
Mephis, Tenn.*	Municipal Code, 1949, Article II, Chapter 33, Sections 943-951, City Charter, Art. IX, Sections 439-443	Five-member Board of Censors	As far in advance of intended exhibition as possible	"immoral, lewd, or lascivious, inimical to the public safety, health, morals, or welfare or denouncing, deriding or seeking to overthrow the present form of national government"

* Ordinance Inactive.

* Test of constitutionality now pending in *Embassy v. Hudson* (U. S. Dist. Court for W. D. Tenn.)

II. ADVANCE NOTICE REQUIRED—No PERMIT OR LICENSE NECESSARY (Cont'd)

City	Ordinance Citation	Censoring Body	Advance Notice	Standards
• Spokane, Wash.	Ordinance No. C-2095 as amended	Commissioner of Public Safety and 12-member Reviewing Board	Fifteen Days Written Notice	"obscene and improper, licentious or immoral or which tends to incite race riots or race hatred that would have a harmful influence upon the public"
• West St. Paul, Minn.	Ordinance No. 438 approved 9/25/56	Police Commission	Seven days prior to exhibition	"immoral, obscene, lewd, or lascivious or any indecent character or which tends to create or incite race or religious prejudices or hatred of any individual creed or nationality."

III. NO ADVANCE NOTICE REQUIRED—REVIEW DURING REGULAR PERFORMANCE

City	Ordinance Citation	Censoring Body	Standards
•Bellingham, Wash.	City Code, Chapter 17.18, Sections 17.18.010 to 17.18.060	Eighteen-member Censor Board	
•Bridgeport, Conn.	City Ordinances, Section 48-7, 1959 Revision	Superintendent of Police	"blasphemous, indecent or contrary to good morals"
Columbus, Ohio	City Code, Chapter 562.01-562.05 (November, 1961)	15-member Motion Picture Review Board	"violates laws of Ohio or Columbus Code"
•Denver, Colo.	Ordinances, Article 911, Section 10	Manager of Safety and Excise	"immoral or indecent character"
•Greeley, Colo.	Ordinances, Section 15-113	Chief of Police	"indecent, immoral or lewd"
•Greensboro, N. C.	Ordinances, Chapter 50, Sections 50.1 to 50.14, 2/17/55	Board of Public Amusement	"obscene, immoral, or objectionable"
•Highland Park, Ill.	Ordinance No. 687, Section 11	Chief of Police	"depicting the commission of crime . . . immoral or questionable"
Houston, Tex.	1942 Code, Sections 25-2 to 25-3	Tax Assessor	"obscene, immoral, indecent, unlawful, unsanitary, unhealthy, or calculated to promote or encourage racial or sectional prejudices, obscenity, indecency, immorality, unlawfulness, unsanitary or unhealthy conditions or disturbances of the peace"

• Ordinance Inactive.

III. NO ADVANCE NOTICE REQUIRED—REVIEW DURING REGULAR PERFORMANCE (Cont'd)

City	Ordinance Citation	Censoring Body	Standards
Little Rock, Ark.	Ordinance No. 7826, Amended by ordinance Nos. 9844 and 10950, 12/27/49.	15-member Censor Board	"indecent, immoral, obscene, profane, licentious, lewd, or against public morals"
•New Haven, Conn.	Ordinances, Chapter II, Sections 24 through 26	Chief of Police	"indecent or blasphemous . . . lewd, indecent or vulgar or pictorially represent the commission or the attempt to commit any crime or bodily violence"
•Oklahoma City, Okla.	1948 Oklahoma City Revised Ordinances, Title 7, Sections 63 to 65	Mayor	"indecent, lewd or immoral character, . . . suggesting or depicting unlawful or forbidden crimes . . . showing or depicting any ex-convicts or convicts, outlaw or outlaws, bandit or bandits, engaged in the commission of their former crimes or in any crimes in which said ex-convicts or convicts, outlaw or outlaws, bandit or bandits, are made the feature of said show"

III. NO ADVANCE NOTICE REQUIRED—REVIEW DURING REGULAR PERFORMANCE (Cont'd)

City	Ordinance Citation	Censoring Body	Standards
•Palo Alto, Calif.	Ordinance No. 1277, Administrative Code, Section 253, and Ordinance No. 5, Sections 15.01, 15.03	Board of Commercial Amusements	"to be of obscene, indecent or immoral nature or presents any gruesome, revolting or disgusting scenes of subjects or tends to disturb the public peace or tends to corrupt the public morals,"
•Rockford, Ill.	City Code, Chapter 5, Article I, Sections 5-1 to 5-7	Censorship Committee consisting of the Mayor, Chief of Police and a member of the City Council	"immoral or obscene, salacious or touches false ethics or which contains nakedness or suggestive dress, prolongs passionate love scenes or scenes making crime, drunkenness or the use of narcotics attractive or which depicts the commission of crime, the white slave traffic or resistance to police authority or scenes that are unduly horrible,"
•San Diego, Calif.	Ordinance No. 3682, Sections 16.01 to 16.05, 3/9/48	Director of Social Welfare	None
Seattle, Wash. ⁷	Ordinance No. 83099, Sections 1-7 (6/1/54) as amended by Ordinance No. 85472 (9/5/56)	Thirteen-member Board of Theatre Supervisors	"obscene, indecent, or immoral nature or character; or wherein any scene of violence is shown or presented in a gruesome or revolting manner, or in a manner which tends to corrupt morals or which is offensive to the moral sense,"

⁷ Section 1 held unconstitutional in *Seattle v. Johnson*, unreported (Sup. Ct. Wash. 1962) ordinance amended, 2/4/63 to provide for classification.

• Ordinance Inactive.

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III. NO ADVANCE NOTICE REQUIRED—REVIEW DURING REGULAR PERFORMANCE (Cont'd)

City	Ordinance Citation	Censoring Body	Standards
•Sioux City, Iowa	Chapter 143, Sections 143-5 to 143-6	Mayor, City Manager, Chief of Police or any member of City Council	"depicting illegal acts, burglaries, safe-cracking, holdups, stagecoach or train robberies, or acts of immoral or indecent nature,"
•Tacoma, Wash.	City Code, Chapter 8.32, Sections 8.32.010 to 8.32.090	Five-member Board of Censors	"immoral, obscene, lewd, lascivious, suggestive or of any indecent character; or which shall tend to exert a harmful influence upon public morals; or which tends to glorify crime; or which portrays brutality; or which shall tend to disturb the public peace,"
•Trenton, N. J.	Article 12, Sections 15-118 to 15-122	Director of Public Safety	"offense against public decency or morals . . . objectionable from a moral standpoint or is likely to create public disorder"
•Waco, Texas	City Charter, Article 281	Board of Commissioners	"indecent, immoral or calculated to affect injuriously the morals of the people"

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